

City Council Chambers 3300 Capitol Avenue Fremont, California

City Council

Bob Wasserman, Mayor Anu Natarajan, Vice Mayor Bob Wieckowski Bill Harrison Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Mary Kaye Fisher, Interim Human Resources Dir.
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

- 1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
- 2. Consent Calendar
- 3. Ceremonial Items
- 4. Public Communications
- 5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
- 6. Report from City Attorney
- 7. Other Business
- 8. Council Communications
- 9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • October 6, 2009



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

AGENDA FREMONT CITY COUNCIL REGULAR MEETING OCTOBER 6, 2009 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A 7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- 2.2 Approval of Minutes for the Regular Meeting of September 22, 2009 and Special Meeting of September 15, 2009
- 2.3 REALLOCATION OF UNSPENT APPROPRIATIONS FIRE SAFETY BOND (MEASURE R)

Reallocate Unspent Appropriations from Completed Fire Stations No. 1 PWC 8551 and No. 6 PWC 8531, to Current Projects Fire Stations No. 2 PWC 8549 and No. 3 PWC 8552

Contact Person:

Name: Robert Kalkbrenner Don Dorman

Title: Fire Bond Program Manager Revenue & Treasury Manager

Dept.: Community Development Finance
Phone: 510-494-4428 510-494-4616

E-Mail: rkalkbrenner@fremont.gov ddorman@fremont.gov

RECOMMENDATION: Approve appropriation transfers of \$90,000 and \$360,000 of Fire Safety bond proceeds from Fire Station No. 1 and Fire Station No. 6, respectively, and appropriate \$110,000 to Fire Station No. 2 (Niles Station) PWC 8549 and \$340,000 to Fire Station No. 3 (Irvington Station) PWC 8552.

2.4 AUTHORIZATION FOR STAFF TO ACCESS CRIMINAL HISTORY INFORMATION Adoption of a Resolution Authorizing Staff to Access State and Local Summary Criminal History Information for Employment, Licensing and Certification Purposes

Contact Person:

Name: Melissa Stevenson Dile Nancy Dias

Title: Deputy City Manager Employment Services Manager

Dept.: City Manager's Office Human Resources
Phone: 510-284-4005 510-494-4663
E-Mail: mdile@fremont.gov ndias@fremont.gov

RECOMMENDATION: Adopt a resolution authorizing staff to access State and local summary criminal history information for employment, licensing and certification purposes and rescinding Resolution No. 4949.

2.5 HUMMINGBIRD PUBLIC UTILITIES EASEMENT AND WATERLINE EASEMENT SUMMARY VACATION AT NORTHWEST CORNER OF BLACOW RD. AND FREMONT BL. (PLN2010-00033)

Adopt a Resolution to Summarily Vacate Portions of a Public Utilities Easement and Waterline Easement on Portions of Lot 6, Tract 7862 Located Within the Robson Homes Hummingbird Development at the Northwest Corner of Blacow Road and Fremont Boulevard in the Irvington Planning Area

Contact Person:

Name: Clifford Nguyen Jeff Schwob
Title: Associate Planner Planning Director

Dept.: Community Development Community Development

Phone: 510-494-4769 510-494-4527

E-Mail: cnguyen@fremont.gov jschwob@fremont.gov

RECOMMENDATION:

- 1. Find Summary Vacation PLN2010-00033 exempt from CEQA per Section 15305 because the vacation is a minor alteration in land use limitations that does not result in any land use or density changes.
- 2. Find Summary Vacation PLN2010-00033, as depicted and described on Exhibit "A," is in conformance with the General Plan for the reasons stated in the body of this report.
- 3. Find Summary Vacation PLN2010-00033, as depicted and described on Exhibit "A," fulfills the applicable criteria for summary vacation for the reasons stated in the body of this report.
- 4. Adopt a Resolution including the findings referenced above, and ordering the summary vacation of the portions of the PUE and WLE as depicted and

described on Exhibit "A."

5. Direct the City Clerk to record the Resolution of Summary Vacation for PLN2010-00033 with the Alameda County Recorder, returning a copy of the recorded Resolution to the Planning and Engineering Divisions of the Community Development Department for their respective files.

2.6 TIBURON CONTRACT APPROVAL

Authorize the City Manager, or Designee, to Issue a Purchase Order and Execute Implementing Documents with Tiburon, Inc., for Software Maintenance of Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management and Property Systems

Contact Person:

Name: Pam Lutzinger Marilyn Crane Title: Public Safety IT Manager Director

Dept.: Police Information Technology Services

Phone: 510-790-6734 510-494-4802

E-Mail: plutzinger@fremont.gov mcrane@fremont.gov

RECOMMENDATION: Authorize the City Manager, or designee, to issue a purchase order to Tiburon, Inc., and to execute implementing documents for the software maintenance of the Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property Management applications in the amount of \$122,793.

2.7 INTRODUCTION OF CONFORMING AMENDMENTS AND MID-CYCLE CLEANUP TO THE 2007 CALIFORNIA FIRE CODE

Continue Public Hearing (Published Notice) to Introduce an Ordinance Making Conforming Amendments and Mid-Cycle Cleanups to the 2007 California Fire Code

Contact Person:

Name: Jay Swardenski Bruce Martin Title: Fire Marshal Fire Chief

Dept.: Fire Fire

Phone: 510-494-4222 510-494-4202

E-Mail: jswardenski@fremont.gov bmartin@fremont.gov

RECOMMENDATION: Continue to October 27, 2009.

3. CEREMONIAL ITEMS

- 3.1 Resolution: Honoring Dfares for Being Newly Certified as a Bay Area Green Business in the City of Fremont
- 3.2 Resolution: Honoring EXP Pharmaceutical Services Corporation for Being Newly Certified as a Bay Area Green Business in the City of Fremont

- 3.3 Resolution: Honoring Mission Valley Holiday Cleaners for Being Newly Certified as a Bay Area Green Business in the City of Fremont
- 3.4 Resolution: Honoring Kate's Caring Gifts for Being Recertified as a Bay Area Green Business in the City of Fremont
- 3.5 Resolution: Honoring Glenmoor Auto Repair for Being Recertified as a Bay Area Green Business in the City of Fremont
- 3.6 Resolution: Honoring Mission San Jose Little League Junior All Stars for Taking First Place in the Northern CA State Championship
- 3.7 Proclamation: Declaring October 24, 2009 Make A Difference Day
- 3.8 Proclamation: Declaring October 15, 2009 "White Cane Day"

4. PUBLIC COMMUNICATIONS

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY - None.

PUBLIC FINANCING AUTHORITY - None.

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

- **5. SCHEDULED ITEMS** None.
- 6. REPORT FROM CITY ATTORNEY
 - 6.1 Report Out from Closed Session of Any Final Action
- 7. **OTHER BUSINESS** None.
 - 7.1 ORDINANCE TO DISSOLVE THE SISTER CITY COMMISSION Introduction of an Ordinance to Dissolve the Sister City Commission and Delete Title 2, Chapter 3, Article 11, Sections 2-31100 through 2-31104 of the Fremont Municipal Code

Contact Person:

Name:Maya WilliamsMelissa Stevenson DileTitle:Management Analyst IIDeputy City ManagerDept.:City Manager's OfficeCity Manager's Office

Phone: 510-284-4013 510-284-4005

E-Mail: mwilliams@fremont.gov mdile@fremont.gov

RECOMMENDATION: Introduce an ordinance dissolving the Sister City Commission and deleting Title 2, Chapter 3, Article 11, Sections 2-31100 through 2-31104 of the Fremont Municipal Code.

8. COUNCIL COMMUNICATIONS

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Dave Anish to the Human Relations Commission

Appointment:

Advisory Body Appointee Term Expires
Human Relations Dave Anish December 31, 2010

Commission

8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



*2.3 REALLOCATION OF UNSPENT APPROPRIATIONS – FIRE SAFETY BOND (MEASURE R)

Reallocate Unspent Appropriations from Completed Fire Stations No. 1 PWC 8551 and No. 6 PWC 8531, to Current Projects Fire Stations No. 2 PWC 8549 and No. 3 PWC 8552

Contact Person:

Name: Robert Kalkbrenner Don Dorman

Title: Fire Bond Program Manager Revenue & Treasury Manager

Dept.: Community Development Finance

Phone: 510-494-4428 510-494-4616

E-Mail: rkalkbrenner@fremont.gov ddorman@fremont.gov

Executive Summary: Staff recommends that the City Council reallocate Fire Safety Bond proceeds appropriations among several fire safety projects based upon the availability of unspent bond proceeds at completed fire stations and the need for additional appropriations at other projects that are still underway. The original Fire Safety Bond program approved by the City Council and the voters provided funding for the various fire stations and safety training facilities as part of the larger program. Throughout the program, staff has sought Council authorization to expend funds on the specific component projects through the appropriation process based on the best available estimates for each project. Fire Station No. 1 (Central Station) PWC 8551 and Fire Station No. 6 (Centerville Station) PWC 8531 projects are now complete and their unspent fire bond proceeds are available to be expended on Fire Stations No. 2 (Niles Station) PWC 8549 and No. 3 (Irvington Station) PWC 8552, where construction is still underway.

BACKGROUND: In 2002, voters approved Measure R, the Fire Safety Bond, which called for the seismic retrofitting and renovation of seven existing fire stations, the construction of three new fire stations to replace existing deficient facilities, and the construction of new public safety training facilities. To date, six of the seven stations have been seismically retrofitted; the last station, located in Irvington, has started construction work on the selective building demolition, and the main construction work will begin this winter. Two of the three new fire stations have been constructed and the last station, located in Niles, will be completed this fall. The training facilities consist of three stand-alone projects. The training classrooms are completed and the gun range and tactical training center are under construction; both will be completed in early 2010.

In February 2009, following the City Council's authorization, the third and final series of Fire Safety Bonds (Series C), authorized by the voters, was issued. The total amount of Fire Safety Bonds issued as part of the three bond series equals \$51 million, which is the amount that was approved by the voters in 2002. As a capital financing planning strategy, the City metered the issuance of the aggregate approved Fire Safety Bond through the three bond series issued over several years to minimize financing costs during construction and to provide flexibility in case the total construction program costs came in less than originally estimated in 2002.

Staff and the Council recognized that the original estimates for each of the project components of the aggregate program were likely to vary as construction actually occurred. This was to be expected given the magnitude and complexity of the overall fire safety capital facilities program. To maintain financial

and financing control of the component projects, the City allocated the aggregate \$51 million in Fire Safety Bond proceeds (and for some projects, other funding sources, too) to each of the project components. The mechanism used to allocate the project budgets was the City's traditional project accounting system, with each component project being assigned its own PWC account.

DISCUSSION/ANALYSIS: Fire Station No. 1 (Central Station) PWC 8551 and Fire Station No. 6 (Centerville Station) PWC 8531 are now complete, with unspent Fire Safety Bond proceeds still appropriated to those PWC accounts. Essentially, the final actual costs turned out to be less than the final "estimated" costs that were used to allocate the bond proceeds through the appropriation process. Conversely, current estimates for Fire Stations No. 2 (Niles Station) PWC 8549 and No. 3 (Irvington Station) PWC 8552, where construction is still underway, are higher than the total appropriations made to those accounts. The proposed transfers of appropriations will readjust these allocations to comport with the constructed reality and the current cost estimates.

This request is relatively routine and is somewhat to be expected. The scope and complexity of this multi-faceted program (staff has addressed the City Council throughout the course of the program on the various challenges and Council has approved the majority of contracts involved) made it inevitable that there would need to be small adjustments as projects came to completion. The table following shows the proposed transfers in the seventh and eighth columns and the post-reallocated appropriations for the respective component projects in the sixth column:

Column 1	2	3	4	5	6	7	8
Fire Station Projects	PWC	Project Status	Total Approved Project Budgets*	Total Fire Safety Bond Funds Appropriated to-Date	Actual or Estimated Toal Project Budgets*	Recommended Amount of Unspent Fire Safety Bond Fund Appropriations to be Reallocated	
						From	То
Station No. 1 Central	8551	Complete	\$4,186,000	\$4,186,000	\$4,096,000	-\$90,000	
Station No. 6 Centerville	8531	Complete	\$12,557,200	\$12,445,001	\$12,197,200	-\$360,000	
Station No. 2 Niles	8549	Construction is 90% Complete	\$6,602,000	\$5,037,001	\$6,712,000		\$110,000
Station No. 3 Irvington	8552	Construction to begin in 2009/10	\$2,858,400	\$676,136	\$3,198,400		\$340,000
		Totals:	\$26,203,600	\$22,344,138	\$26,203,600	-\$450,000	\$450,000

^{*}Total Project Budgets include all funding sources.

Reallocation results in no change to the aggregate amount of Fire Safety Bond Funds appropriated.

These transfers are also important to accomplish the original intentions of the City Council and the electorate with regard to the Fire Safety Bonds. When all the fire and safety projects are completed, any unspent bond proceeds on hand must be used for bond debt service interest or principal. If the Fire Safety Bond has unspent bond proceeds that are not transferred from completed projects to projects that are still in progress and projected to need resources, those unspent bond proceeds are at risk of not being expended for their intended capital purposes. Therefore, this request ensures the intent of the City Council and the voters is honored with respect to the issued general obligation bonds.

The transfer of these appropriations between component projects will in no way change the total financing or the total estimated costs for the entire Fire Safety Bond improvement program. As one component project's appropriation is increased, another is decreased so that the total net change is zero.

BUDGET: There is no impact on the aggregate Fire Safety Bond improvement program budget, and no impact on the General Fund budget.

APPROPRIATIONS: The proposed action transfers \$90,000 and \$360,000 from the Fire Safety Bond proceeds appropriated to Fire Station No. 1 and Fire Station No. 6, respectively, and reallocates these unspent appropriations as follows: \$110,000 to Fire Station No. 2 (Niles Station) PWC 8549 and \$340,000 to Fire Station No. 3 (Irvington Station) PWC 8552. The net change in program appropriations is zero.

ENCLOSURES: None.

RECOMMENDATION: Approve appropriation transfers of \$90,000 and \$360,000 of Fire Safety bond proceeds from Fire Station No. 1 and Fire Station No. 6, respectively, and appropriate \$110,000 to Fire Station No. 2 (Niles Station) PWC 8549 and \$340,000 to Fire Station No. 3 (Irvington Station) PWC 8552.

*2.4 AUTHORIZATION FOR STAFF TO ACCESS CRIMINAL HISTORY INFORMATION Adoption of a Resolution Authorizing Staff to Access State and Local Summary Criminal History Information for Employment, Licensing and Certification Purposes

Contact Person:

Name: Melissa Stevenson Dile Nancy Dias

Title: Deputy City Manager Employment Services Manager

Dept.: City Manager's Office Human Resources
Phone: 510-284-4005 510-494-4663
E-Mail: mdile@fremont.gov ndias@fremont.gov

Executive Summary: Under California Penal Code Sections 11105(b)(11) and 13300(b)(11), State and local summary criminal history information is provided to cities and other public agencies when needed in order to fulfill employment, certification or licensing duties, provided that (1) the City Council must specifically authorize such access, and (2) access to the information is necessary in order to implement a statute, ordinance or regulation that contains exclusions from employment, licensing, and certification for certain criminal conduct. The attached resolution updates existing Resolution No. 4949, based on an educational audit of the City's practices in this regard that was performed by the California Department of Justice in 2002.

BACKGROUND: The City currently accesses criminal history information for applicants for employment, as well as applicants for certain licenses and certifications. Such access is necessary in order to determine the eligibility of these applicants based on specific exclusions from employment, licenses and certifications due to certain criminal history under the City's municipal code and the Personnel Rules. For example, the Personnel Rules allow an applicant for employment to be rejected on the basis of conviction of a crime involving moral turpitude.

In 2002, the Department of Justice performed an educational audit of the City's practices with respect to criminal background checks. Staff was provided training and feedback on improved practices, and updating the existing resolution authorizing access to criminal history information was identified as one of the improvements. Specifically, the current Resolution No. 4949 was adopted in 1980 and restricts access to background information to specific individuals, such as the City Manager, rather than allowing for designation of other staff to access the information and perform the background check duties. In addition, the list of those applying for licenses and certifications needs to be updated.

DISCUSSION/ANALYSIS: Allowing for designation of staff to access criminal history and perform background check duties is more practical than limiting access to specific individuals listed in the resolution. For example, in the current resolution, only the City Manager and the City Attorney may access criminal history to determine whether or not to issue, revoke or suspend a permit to conduct bingo games. The proposed resolution, which has been approved by the California Department of Justice (DOJ), would allow the City Manager to designate staff access administratively. This approach was suggested by DOJ during the educational audit. Staff who are designated to have access to criminal history would receive training on the legal requirements and practical aspects of accessing criminal history records.

FISCAL IMPACT: None

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURES:

- Draft Resolution
- Resolution No. 4949

RECOMMENDATION: Adopt a resolution authorizing staff to access State and local summary criminal history information for employment, licensing and certification purposes and rescinding Resolution No. 4949.

*2.5 HUMMINGBIRD PUBLIC UTILITIES EASEMENT AND WATERLINE EASEMENT SUMMARY VACATION AT NORTHWEST CORNER OF BLACOW RD. AND FREMONT BL. (PLN2010-00033)

Adopt a Resolution to Summarily Vacate Portions of a Public Utilities Easement and Waterline Easement on Portions of Lot 6, Tract 7862 Located Within the Robson Homes Hummingbird Development at the Northwest Corner of Blacow Road and Fremont Boulevard in the Irvington Planning Area

Contact Person:

Name: Clifford Nguyen Jeff Schwob
Title: Associate Planner Planning Director

Dept.: Community Development Community Development

Phone: 510-494-4769 510-494-4527

E-Mail: cnguyen@fremont.gov jschwob@fremont.gov

Executive Summary: The applicant, Robson Homes, requests a summary vacation for portions of a Public Utilities Easement (PUE) and Water Line Easement (WLE) to facilitate minor adjustments to the siting of two homes within the "Hummingbird" development (previously "Arcadia"). In 2007, the Council approved Hummingbird with adoption of a Precise Planned District to permit development of a new single-family neighborhood with 66 detached homes. The approval included Tentative Tract Map 7862 with numerous easements necessary to provide utility services. Subsequently, these easements were recorded with Council's approval of the final map that permitted commencement of the development in the summer of 2008 (13 homes now completed; 25 total by the end of 2009). As the specific sliver portions of the easement shown in Exhibit "A" proposed for vacation are not needed now or in the future for utility uses, staff recommends the adoption of a Resolution to approve the summary vacation of portions of a PUE and WLE that affect Lot 6 of Tract 7862.

BACKGROUND: The project site history is summarized, as follows:

- 1. In May 2007, the City Council adopted a resolution approving a General Plan Amendment (GPA) which established the site's underlying land use designation of Medium Density Residential (11 to 15 dwelling units per acre) to facilitate the development.
- 2. In September 2007, the Council approved a Precise Planned District accompanied by Tentative Tract Map 7862 for development of 66 new single-family homes.
- 3. In June 2008, the Council approved and a final map for Tract 7862 was recorded including the dedication of the PUE and WLE.
- 4. In November 2008, an amended Tract Map 7862 was recorded to correct mapping errors and omissions.
- 5. In Sept 2009, the applicant submitted an application for the proposed vacation of portions of the PUE.

To date, common improvements for the tract map are nearly complete. The development is in its third phase with an anticipated completion of an additional twelve homes before the end of the year.

DISCUSSION/ANALYSIS (RATIONALE FOR VACATION): Subsection (b) of Section 8333 of the Streets and Highways Code allows a summary vacation of utilities easements when:

"The date of the dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date."

The proposed vacation meets this criterion, as follows:

Neither the City nor the Alameda County Water District, or other utility agencies, have used the portions of the PUE or WLE proposed for vacation originally dedicated in July 2008. The date of the dedication of the PUE and WLE is less than five years, and is more than one year from the date of this proposed vacation.

On September 10, 2009, staff conducted an inspection of the easement areas proposed for vacation. No utilities were observed above ground nor was there evidence that utilities were installed underground in the areas affected by the proposed vacation. The Alameda County Water District staff has also indicated that it does not object to the proposed vacation.

As noted, no utilities are presently located, and none are proposed for future location, in the portions of the PUE and WLE proposed for vacation. Accordingly, the statutory criteria for summary vacation are satisfied and because the intended utility use of the portions of the PUE and WLE to be vacated did not occur and those portions are not needed in the future the proposed summary vacation is appropriate

No Reservations or Conditions Recommended: Vacation of the portions of the PUE and WLE will not affect the ability to accommodate easement areas necessary for utilities serving the development. No other reservations within the portions of easements proposed for vacation are needed either.

General Plan Consistency: The Streets and Highways Code requires that, if the proposed vacation of a street or public service easement is within an area for which a general plan is adopted, the City Council should consider the project's consistency with the general plan prior to vacating the easement.

The proposed summary vacation is in conformance with the General Plan Fundamental Goal F-10:

"Public services responsibly managed and equitably distributed throughout the city."

Staff recommends the summary vacation because relinquishment of minor portions of these easements would not affect any easement areas needed to serve the development. Easement areas are already sufficient in size and location to provide utility services sufficient for the development.

This summary vacation of easements is exempt from Planning Commission review because it is minor in nature and involves the disposition of public interests relating to non-street vacations (i.e., the PUEs and WLEs), as Council Resolution No. 9216 so provides.

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¹ Tract Map 7862 was later amended in November 2008 but did not affect portions of easements proposed for vacation in question (see Exhibit "A").

ENVIRONMENTAL REVIEW: This vacation is categorically exempt pursuant to *California Environmental Quality Act Guidelines*, Section 15305 (Minor Alterations in Land Use Limitations).

PUBLIC HEARING NOTIFICATION: None. State law does not require noticed public hearings of proposed summary vacations.

NOTIFICATION TO UTILITY COMPANIES: Staff has notified all utility companies providing service in the project area about this proposal. To date, only the Alameda County Water District responded that it has a separate water line easement within the same limits of the WLE and PUE proposed for vacation. ACWD's Board will consider vacation of that easement on October 8, 2009. ACWD staff does not object to the proposed vacation.

ENCLOSURES:

- Draft Resolution
- Exhibit "A" Plat and Legal Description of Proposed Vacation (PUE and WLE)

EXHIBITS:

• Exhibit "A" Plat and Legal Description of Proposed Vacation (PUE and WLE)

RECOMMENDATION:

- 1. Find Summary Vacation PLN2010-00033 exempt from CEQA per Section 15305 because the vacation is a minor alteration in land use limitations that does not result in any land use or density changes.
- 2. Find Summary Vacation PLN2010-00033, as depicted and described on Exhibit "A," is in conformance with the General Plan for the reasons stated in the body of this report.
- 3. Find Summary Vacation PLN2010-00033, as depicted and described on Exhibit "A," fulfills the applicable criteria for summary vacation for the reasons stated in the body of this report.
- 4. Adopt a Resolution including the findings referenced above, and ordering the summary vacation of the portions of the PUE and WLE as depicted and described on Exhibit "A."
- 5. Direct the City Clerk to record the Resolution of Summary Vacation for PLN2010-00033 with the Alameda County Recorder, returning a copy of the recorded Resolution to the Planning and Engineering Divisions of the Community Development Department for their respective files.

*2.6 TIBURON CONTRACT APPROVAL

Authorize the City Manager, or Designee, to Issue a Purchase Order and Execute Implementing Documents with Tiburon, Inc., for Software Maintenance of Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management and Property Systems

Contact Person:

Name: Pam Lutzinger Marilyn Crane

Title: Public Safety IT Manager Director

Dept.: Police Information Technology Services

Phone: 510-790-6734 510-494-4802

E-Mail: plutzinger@fremont.gov mcrane@fremont.gov

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Executive Summary: The City has an existing Master Support Agreement with Tiburon, Inc., to support Police Department Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property Systems applications. The existing support agreement expired on September 30, 2009. The annual support cost for the period October 1, 2009 through September 30, 2010 is \$122,793. This amount exceeds \$100,000 and requires City Council approval.

BACKGROUND: The City entered into a Master Support Agreement with Tiburon as part of the System Implementation Agreement dated December 17, 2003. The Master Support Agreement includes Exhibit 2, which is a list of the applications covered under the Master Support Agreement together with the annual support fees. There is no new agreement for the support of the Tiburon applications each year. However, Exhibit 2 to the Master Support Agreement is updated with the new annual fees.

DISCUSSION/ANALYSIS: The Tiburon Master Support Agreement includes technical assistance for the Computer-Aided Dispatch system twenty-four hours a day, seven days a week. Technical assistance for the other Tiburon applications is available during the regular business day, 8:00 a.m. to 5:30 p.m. PST, excluding weekends and holidays. The Master Support Agreement also provides for corrections of any errors in the applications, a designated account manager, monthly status reports, updates for the interfaces to external systems such as the National Crime Information Center and California Law Enforcement Telecommunications System, and an annual operations review.

It is important to have support agreements provided by the vendor in order to ensure that the applications used by the Police Department are updated and supported on an ongoing basis in the event of system malfunction. The support agreement is also important in this case so that technical assistance is available twenty-four hours a day, seven days a week for the critical Computer-Aided Dispatch application.

FISCAL IMPACT: Funds are appropriated for the Tiburon annual support fees in the Information Technology Services Department's FY 2009/10 budget (620-1714-6106)

ENVIRONMENTAL REVIEW: Not applicable.

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager, or designee, to issue a purchase order to Tiburon, Inc., and to execute implementing documents for the software maintenance of the Computer-Aided Dispatch, Automated Report Writing, Records Management, Jail Management, and Property Management applications in the amount of \$122,793.

*2.7 INTRODUCTION OF CONFORMING AMENDMENTS AND MID-CYCLE CLEANUP TO THE 2007 CALIFORNIA FIRE CODE

Continue Public Hearing (Published Notice) to Introduce an Ordinance Making Conforming Amendments and Mid-Cycle Cleanups to the 2007 California Fire Code

Contact Person:

Name: Jay Swardenski Bruce Martin Title: Fire Marshal Fire Chief

Dept.: Fire Fire

Phone: 510-494-4222 510-494-4202

E-Mail: jswardenski@fremont.gov bmartin@fremont.gov

Executive Summary: Staff needs additional time to complete its review of conforming amendments and recommends that the item be continued to a date certain of October 27, 2009.

ENCLOSURE: None

RECOMMENDATION: Continue to October 27, 2009.

6.1	Report Out from Closed Session of Any Final Action

7.1 ORDINANCE TO DISSOLVE THE SISTER CITY COMMISSION

Introduction of an Ordinance to Dissolve the Sister City Commission and Delete Title 2, Chapter 3, Article 11, Sections 2-31100 through 2-31104 of the Fremont Municipal Code

Contact Person:

Name:Maya WilliamsMelissa Stevenson DileTitle:Management Analyst IIDeputy City ManagerDept.:City Manager's OfficeCity Manager's Office

Phone: 510-284-4013 510-284-4005

E-Mail: mwilliams@fremont.gov mdile@fremont.gov

Executive Summary: In light of staffing reductions and low activity by the Sister City Commission, staff is recommending that the City Council introduce an ordinance to dissolve the Sister City Commission. The ordinance would delete Title 2, Chapter 3, Article 11, Sections 2-31100 through 2-31104 of the Fremont Municipal Code. The Sister City Commission has been unable to meet since January 2008, due to the inability to obtain a quorum. Additionally, staff reductions have limited the City Manager's Office capacity to adequately support the Sister City Commission.

BACKGROUND: The Sister City Commission was created in 1962. The purpose of the Commission is to plan and implement programs which promote the sister city relationship and to act as the official host for visitors from our five Sister Cities. Six volunteers have been appointed by the Mayor to serve on the commission and represent its five Sister Cities. Those cities include:

- Puerto Peñasco, Mexico Since 1971
- Fukaya, Japan Since 1979
- Horta, The Azores, Portugal Since 1987
- Lipa City, Philippines Since 1992
- Jaipur, India Since 1993

In the past, the Commission has organized international exchanges and, with the help of other volunteers, raised funds to support Sister City activities.

In January 1988, the City Council approved an item to remove term limits from the Commission. As a result, the most recent appointment to the Commission was almost ten years ago.

The Sister City Commission is affiliated with Sister Cities International, a nonprofit organization that provides services and a network for partnerships between U.S. and international communities. The City continues to pay annual dues to keep its membership current.

DISCUSSION/ANALYSIS: The Sister City Commission has not met since January 2008. The Commission is scheduled to meet three times a year, in January, May, and September, but has not been able to do so due to lack of a quorum. One of the commissioners has not attended meetings for several years, but has not formally resigned.

Two staff in the City Manager's Office have been providing administrative support to the Commission. The City has also given financial support in previous years for luncheons, receptions, gifts, and delegation support. Due to budget constraints, the loss of two professional positions in the City Manager's Office (Deputy City Manager and Intergovernmental Relations Manager), and the retirement of the Executive Assistant to the City Manager, the City Manager's Office no longer has the capacity to provide adequate support to the Commission.

According to the Northern California representative for Sister Cities International, most cities are moving away from the traditional Sister City commission/committee model, in which individuals are appointed by the Mayor or the City Council and the commission or committee is provided administrative support by the city, in lieu of Sister City programs that are run by volunteer community-based organizations. All three other major cities in the Bay Area have Sister City programs whose leadership and members are not appointed by elected officials. Rather, the Sister City programs are administered through non-profit groups or community based organizations.

Staff met with the Sister City Commission on September 16th to discuss this issue and provide clarity about the dissolution. We also discussed other Sister City program models being implemented in other cities. Of the six commissioners that attended the meeting, two commissioners support the ordinance and four oppose it.

FISCAL IMPACT: There is no significant fiscal impact to dissolving the Commission; however, this change would allow City Manager's Office staff to focus on higher priority activities.

ENVIRONMENTAL REVIEW: This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) under California Code of Regulations Title 14, Section 15061 (b)(3), in that it is not a Project which has the potential for causing a significant effect on the environment.

ENCLOSURE: Draft Ordinance

RECOMMENDATION: Introduce an ordinance dissolving the Sister City Commission and deleting Title 2, Chapter 3, Article 11, Sections 2-31100 through 2-31104 of the Fremont Municipal Code.

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Dave Anish to the Human Relations Commission

Appointment:

Advisory BodyAppointeeTerm ExpiresHuman Relations CommissionDave AnishDecember 31, 2010

ENCLOSURES: Commission Application

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAGAssociation of Bay Area Governments	FUSD Fremont Unified School District
ACCMA Alameda County Congestion	GIS Geographic Information System
Management Agency	GPA Geographic information system GPA General Plan Amendment
ACEAltamont Commuter Express	HARB Historical Architectural Review Board
ACFCDAlameda County Flood Control District	HBA Home Builders Association
ACTAAlameda County Transportation	HRC Human Relations Commission
Authority	ICMA International City/County Management
ACTIAAlameda County Transportation	Association
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance
BAAQMD Bay Area Air Quality Management	District
District	LOCC League of California Cities
BART Bay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPsBest Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERSCalifornia Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDD Community Development Department	PCPlanning Commission
CC & R'sCovenants, Conditions & Restrictions	PD Planned District
CDBGCommunity Development Block Grant	PUCPublic Utilities Commission
CEQACalifornia Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWC Public Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQ Request for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSCommunity Oriented Policing and Public	ROP Regional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DODevelopment Organization	SPAA Site Plan and Architectural Approval
DU/ACDwelling Units per Acre	STIP State Transportation Improvement
EBRPDEast Bay Regional Park District	Program
EDACEconomic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department
EISEnvironmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAFEducation Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAWEmergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

Date	Time	Meeting Type	Location	Cable Channel 27
October 13, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 20, 2009	TBD	Work Session	Council Chambers	Live
October 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 17, 2009	TBD	Work Session	Council Chambers	Live
November 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 1, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 8, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
December 15, 2009	TBD	Work Session	Council Chambers	Live
December 16, 2009 – January 4, 2010		Council Recess		
January 5, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 12, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
January 19, 2010	TBD	Work Session	Council Chambers	Live
January 26, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 2, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 9, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live
February 16, 2010	TBD	Work Session	Council Chambers	Live
February 23, 2010	7:00 p.m.	City Council Meeting	Council Chambers	Live